



City of NORFOLK

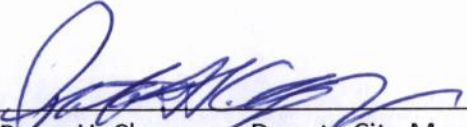
C: Dir., Department of Development

To the Honorable Council
City of Norfolk, Virginia

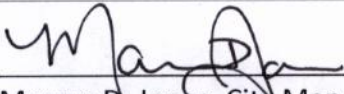
May 10, 2016

From: Charles E. Rigney Sr., Director of
Development

Subject: An ordinance approving a
land disposition and development
contract between the City of Norfolk
and Vistacor Advisors, LLC

Reviewed: 
Peter H. Chapman, Deputy City Manager

Ward/Superward: 4/7

Approved: 
Marcus D. Jones, City Manager

Item Number:
PH-3

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Vistacor Advisors, LLC

III. **Description:**

This agenda item is an ordinance to approve a land disposition and development contract between the City of Norfolk (the "city"), seller, and Vistacor Advisors, LLC ("Vistacor"), purchaser, for four parcels of real property consisting of 1.56 acres, more or less, and located at Hampton Boulevard and 26th Street.

IV. **Analysis**

- Vistacor proposes to construct a high quality retail center to be known as "The Railyard at Lambert's Point" (the "Project") on real property located at Hampton Boulevard and 26th Street.
- The Project shall be constructed on approximately thirteen acres. A portion of the Project site, including four parcels totaling 1.56 acres, is owned by the city.
- Vistacor, at its sole cost and expense, shall construct an extension of the Elizabeth River Trail along the southern boundary line of the project.

V. **Financial Impact**

- Purchase price of the city-owned property is \$600,000.
- The Economic Development Authority of the City of Norfolk (the "EDA") and Vistacor will enter into a Performance Grant Agreement or similar agreement under which Vistacor shall receive up to \$300,000 per year for ten years.
- The purpose of the agreement is to offset the costs associated with the infrastructure improvements at the project (road improvements, signal improvements, etc.).

- Annual payments will be made on the basis of the incremental revenue realized by the city from sales and food/beverage taxes generated by the restaurant and retail tenants.

VI. Environmental

N/A

VII. Community Outreach/Notification

Vistacor has presented at the Lamberts' Point/Park Place/Highland Park Task Force and the Lambert's Point Civic League. Public notification for this agenda item was conducted through the city's agenda notification process.

VIII. Board/Commission Action


By a vote of 6 to 0, the Planning Commission recommended that the request for a change of zoning to modify the conditions of the zoning be approved.

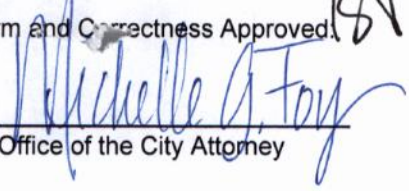
IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of Development and the City Attorney's Office.


Supporting Material from the Department of Development:

- Ordinance
- LDDC

Form and Correctness Approved: 

By 
Office of the City Attorney

Contents Approved:

By 
DEPT. of Development

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING A LAND DISPOSITION AND DEVELOPMENT CONTRACT BETWEEN THE CITY OF NORFOLK, AS SELLER, AND VISTACOR ADVISORS, LLC, AS PURCHASER, FOR FOUR PARCELS OF REAL PROPERTY CONSISTING OF 1.56 ACRES, MORE OR LESS, AND LOCATED AT HAMPTON BOULEVARD AND 26TH STREET IN THE CITY OF NORFOLK.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the Land Disposition and Development Contract (the "Contract") between the City of Norfolk, as seller, and Vistacor Advisors, LLC ("Vistacor"), as purchaser, a copy of which is attached hereto, wherein the City of Norfolk agrees to transfer to Vistacor all those certain parcels of real property consisting of 1.56 acres, more or less, and located on Hampton Boulevard and 26th Street, as shown on Exhibit B of the Contract, and Vistacor agrees to construct a mixed use commercial development described and shown in Exhibit A to the contract, including, without limitation, approximately 98,300 square feet of retail space, to include an Earth Fare grocery store, approximately 3,800 square feet of office space and the potential development of approximately 20,000 square feet or more of additional office space, along with related amenities, a public bike and pedestrian trail, and surface parking, is hereby approved.

Section 2:- That the City Manager is authorized to correct, amend, or revise the Contract as he may deem necessary in order to carry out the intent of the Council and to execute the Contract, as corrected, amended, or revised in accordance herewith, for and on behalf of the City, subject however to approval as to form and correctness by the Office of the City Attorney.

Section 3:- That this ordinance shall be in effect from and after thirty (30) days from the date of its adoption.

LAND DISPOSITION AND DEVELOPMENT CONTRACT
BETWEEN
THE CITY OF NORFOLK, VIRGINIA
AND
VISTACOR ADVISORS, LLC

LAND DISPOSITION AND DEVELOPMENT CONTRACT

THIS LAND DISPOSITION AND DEVELOPMENT CONTRACT ("Contract"), is made as of the ___ day of April, 2016, by and between the CITY OF NORFOLK, VIRGINIA ("City"), a municipal corporation of the Commonwealth of Virginia, and VISTACOR ADVISORS, LLC, a Virginia limited liability company ("Developer"). The parties to this Contract may be collectively referred to by the term "Parties" or individually as "Party".

RECITALS:

A. Under the leadership of the City Council of the City of Norfolk the City desires to expand commercial development within the City.

B. Accordingly, the City desires that Developer construct a high-quality retail center to be known as "Railyard at Lambert's Point" on real property located at Hampton Boulevard and W. 26th Street in the City of Norfolk in accordance with Developer's Proposal, as hereinafter defined, set forth in Exhibit A attached hereto and made a part hereof (the "Project"). The Project shall be constructed on approximately thirteen (13) acres, more or less, shown on Exhibit A (the "Project Site"). A portion of the Project Site, including four (4) parcels totaling 1.56 acres, more or less, is owned by the City and is shown on Exhibit B attached hereto and made a part hereof (the "Property").

C. Negotiations by the Parties have produced this Contract for the City to sell the Property to Developer and for Developer to construct and equip the Project in accordance with the terms hereof.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants herein contained, the Deposit to be paid as described below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS OF TERMS

When used in this Contract with an initial capital letter or letters, each of the following terms shall have the meaning given it below.

(a) “Affiliate” of Developer means any legal entity, which controls, is controlled by, or is under common control with another entity with the Developer. For purposes of this Contract, Affiliate shall be deemed to include a partnership or other entity established as a joint venture for purposes of this Project by Developer and Hampshire Companies.

(b) “City” means the City of Norfolk.

(c) “City Delay” means any delay in completion of the Project resulting from any failure by City to perform timely any of its obligations under this Contract.

(d) “Closing Date” means the date established pursuant to Section 3.1 of this Contract.

(e) “Contract” means this Land Disposition and Development Contract between the City and the Developer.

(f) “Contractors” means the general contractors and subcontractors for construction of the Project.

(g) “Deposit” means the sum of Sixty Thousand and 00/100 Dollars (\$60,000.00) that will be paid by Developer to City within five (5) business days after execution of this Contract.

(h) “Developer’s Proposal” shall mean the Site Plan and related documents set forth in Exhibit A. In the event of a conflict between the terms of this Contract and the terms of Developer’s Proposal, the terms of this Contract shall govern.

(i) "Development Budget and Timeline" means a budget and timeline, prepared by Developer and submitted to and approved by the City pursuant to Section 2.11 hereof for development of the Project on such schedule as is reasonably required to achieve the Construction Completion Deadline, as hereinafter defined, set forth in Section 2.11 hereof.

(j) "Due Diligence Period" means the ninety (90) day period after the date of execution of this Contract that is necessary for Developer to obtain the necessary information, assessments, studies, and the like before acquiring the Property.

(k) "Financing Commitment" means a commitment or commitments reasonably satisfactory to the City, which has or have been accepted by Developer from one or more equity investors or institutional lenders who are approved by the City, to finance the construction of the Project. The City's approval will not be unreasonably withheld. In order to constitute a Financing Commitment under this definition, a commitment must be duly authorized by the issuer and must be in substantially the same form and level of detail typically utilized by a prospective lender or investor in similar transactions, including requirements for closing and conditions thereof; and, in the case of loan commitments, setting forth the proposed principal amount, interest rate, amortization terms, collateral or guaranty requirements, maturity date, improvements to be constructed, and the expiration date of the commitment.

(l) "Outside Closing Date" means the latest date on which Closing may occur as set forth in Section 3.1 of this Contract.

(m) "Project" means the Developer's mixed use commercial development described and shown in the Developer's Proposal, including, without limitation, approximately 98,300 square feet of retail space, to include an Earth Fare grocery store, approximately 3,800 square feet of office space and the potential development of approximately 20,000 or more additional square feet of office space, along with related amenities, a public bike and pedestrian

trail, surface parking, and other requirements of the Project set forth in this Contract and to be constructed by Developer on the Project Site, as more particularly described in Developer's Proposal and shall also include the Developer Infrastructure Improvements, as hereinafter defined.

(n) "Substantially Complete" or "Substantial Completion" means, with respect to the Project, the date when the construction of the buildings and improvements of the Project is sufficiently completed so as to permit use of the buildings for the purposes for which they are intended and the issuance of a certificate of occupancy, which date may precede the full completion of all punch-list items, landscaping and similar design and development functions.

(o) "Unavoidable Delay" means a delay due to war, riots, civil commotion, strikes, labor disputes, embargoes, natural disaster, Acts of God or any other cause or contingency similarly beyond the control of the Parties or the Developer's contractors.

ARTICLE II

AGREEMENT TO CONVEY AND DEVELOP PROPERTY

Section 2.1. Conveyance of Property "As Is", Development, Design and Construction of Project.

City will convey fee simple title to the Property to Developer by special warranty deed which title shall be good and marketable and free of any liens, encumbrances, or other title defects which would prohibit or impair the use of the Property for the purposes contemplated by this Contract, except for any Permitted Encumbrances, as hereinafter defined. The City shall have reasonable time to cure any title defects which are not acceptable to Developer and/or its lender. The City, however, shall have the option of declining to cure any defect, and if the City does decline to cure any defect or does not cure any defect that it has agreed to cure, the Developer shall have the right either to waive its title objections and to take title to the Property subject to such

title defects, which shall be considered “Permitted Encumbrances” as defined in Section 3.6(a) of this Contract, or to terminate this Contract and to receive the return of the Deposit as its exclusive remedy for termination of this Contract and any related claim. Developer will accept from City the Property, subject to the terms and conditions hereinafter set forth. Except as expressly set forth in this Contract, Developer is accepting the use and conveyance of the Property “as is.” Each Party shall be responsible for its costs of closing. Developer shall be responsible for any demolition.

The City shall not be obligated to any extent under this Contract until any required notices, advertisements and/or hearings have been held and an ordinance has been adopted by City Council approving the Project and authorizing the City Manager to enter into this Contract.

Section 2.2. Restrictive Covenants.

The restrictive covenants contained in this Section 2.2 (“Restrictive Covenants”) are intended and designed to operate as covenants binding upon Developer and its Affiliates, successors and assigns. The Restrictive Covenants are intended for the benefit of the Property, provided that only the City and any successor or assignee of the City that is a local governmental agency shall have the right, power and authority to enforce the Restrictive Covenants. The City shall have the right, power and authority (without the necessity of obtaining the consent of Developer) to waive compliance with any of the Restrictive Covenants whenever it makes a determination, in its reasonable discretion, that such non-compliance or default does not materially interfere with the objectives of the City with regard to development. In addition to, but not in lieu, of any other right or remedy for breach of any one or more of the Restrictive Covenants, the City shall be entitled to seek injunctive relief, without necessarily showing monetary or special damages and without posting bond or security for a bond for the award of a permanent injunction. The violation of any of the Restrictive Covenants, and the exercise of any right or remedy for breach of any of such covenants, shall not destroy, impair or otherwise affect the lien of any recorded

instrument given by Developer to secure repayment of a loan or loans made for the purpose of providing funds for improving the Property or cause a reversion or forfeiture of title. The Parties recognize that the development and operation of the Property in a manner that is in the best interests of both Parties may from time to time require the confirmation, clarification, amplification or elaboration of the Restrictive Covenants in order to deal adequately with circumstances that may not now be foreseen or anticipated by the Parties.

As part of the consideration for this transaction, the Property to be conveyed, is expressly subject to the following covenants, restrictions, limitations and conditions that are to be imposed as covenants running with and binding upon the aforesaid Property and Project:

(a) Any land area within the Property not occupied by structures, hard surfacing, or vehicular driveways shall be kept planted with grass, trees, and plants or shrubbery and maintained in a healthy condition and neat appearance. In the event of a default by Developer, or its successors and assigns, in the planting or maintenance obligations set forth in this Section 2.2(a), which default continues for a period of thirty (30) business days after receipt by Developer of written notice thereof, the required planting and maintenance work may be completed by the City at the sole cost and expense of Developer, its successors and assigns, and Developer shall reimburse City for the costs thereof within thirty (30) days after receipt of an invoice therefor.

(b) The Project and its appurtenant premises will be maintained by Developer in a sound condition and with a neat and well maintained appearance. Necessary repairs, maintenance and upkeep of the Project will be performed so as to preserve the attractive appearance, physical integrity, and the sanitary and safe condition of the buildings and other improvements. In the event of a default by Developer in the repair, maintenance or upkeep obligations set forth in this Section 2.2(b), which default continues for a period of thirty (30) days after receipt of written notice thereof by Developer, the required repairs, maintenance and upkeep

may be completed by the City at the sole cost and expense of Developer, and Developer shall reimburse City for the costs thereof within thirty (30) days after receipt of an invoice therefor.

(c) Any service area, facility or equipment located on the Project that is visible from a public right-of-way shall be enclosed or adequately screened using landscaping or materials that are consistent with the design of the Project.

(d) Gas, electric and other utility services shall be underground to the Project from the main distribution. No utility line or connection to any utility line at or above ground level shall be permitted.

The Restrictive Covenants shall expire forty (40) years after the date of this Contract and shall be binding upon the City and Developer, and, if conveyed by Developer, then upon its successors and assigns.

It is intended and agreed hereby that the Restrictive Covenants under Section 2.2 shall be covenants running with the land and that they shall in any event, and without regard to technical classification or designation, legal or otherwise be binding upon the City and Developer respectively as the case may be.

Section 2.3. Title Insurance.

Prior to the expiration of the Due Diligence Period, Developer, at its expense, shall obtain a commitment for title insurance (the “Title Commitment”) from a nationally recognized title company and furnish a copy of the Title Commitment to City.

Section 2.4. Due Diligence.

Developer shall have the right of entry set forth in Section 4.1. In the event Developer determines, in its sole discretion, the Property is unsuitable for the Project or title to the Property is not acceptable, Developer may terminate this Contract by written notice thereof to the City prior to expiration of the Due Diligence Period and Developer’s sole remedy shall be return

of its Deposit and neither party shall have any further obligations under this Contract except as otherwise expressly provided in this Contract. In the event Developer does not exercise its right to terminate this Contract by giving the City written notice thereof prior to the expiration of the Due Diligence Period, its Deposit shall then be non-refundable after the conditions in Section 3.3(e) and Section 3.3(f) have been satisfied, unless this Contract is terminated by Developer because any of the conditions in Subsections (a), (b), (c), (d) or (d) of Section 3.3 have not been satisfied.

Section 2.5. Design of Project; ARB.

The Project will consist of the buildings, facilities and elements described in Developer's Proposal, as such proposal is revised in accordance with the terms of this Contract. The design and materials of the Project shall be subject to review and approval by the City's Architectural Review Board ("ARB") pursuant to City Code Section 32-70(a)(2), except for the design and materials of the elevations that were proffered conditions to the rezoning of the Property approved by the City Council of the City of Norfolk in Ordinance 46,298. Accordingly, if not previously initiated, promptly after execution of this Contract, Developer shall submit the Project to the City's ARB.

Developer shall submit the preliminary plans to the City's Department of Planning, Department of Development, and Department of Public Works (a) when design is approximately 10% complete, (b) when design is approximately 60% complete, (c) when design is approximately 90% complete and (c) when design is sufficiently complete such that Developer's contractor can proceed with construction. The City shall review the design of the Project in accordance with the terms of Section 2.92.9 of this Contract. Developer may not proceed with construction until the plans are approved in writing by City and in order to enforce this Section 2.52.5, the City shall be entitled to seek injunctive relief without necessarily showing monetary or special damages and

without posting bond or security for a bond for the award of a permanent injunction. The City's review will include, but will not be limited to, confirming that the design at the 60%, 90% and 100% stages is in substantial conformance with this Contract, the previous plans provided (as modified in accordance with the terms herewith) and approved and the plans approved by ARB. Developer must also obtain all other approvals required by the Norfolk City Code and other applicable laws and regulations. If Developer, despite using commercially reasonable effort, is unable to obtain approval by the City of the plans for the Project and all other governmental approvals and permits required to commence construction of the Project prior to Closing, Developer may terminate this Contract by giving the City written notice thereof prior to the Closing, and its sole remedy shall be the return of its Deposit and termination of this Contract and neither Party shall have any further obligation under this Contract, except as otherwise expressly provided in this Contract.

Section 2.6. Developer Infrastructure Improvements.

(a) Developer, at its sole cost and expense, shall complete the improvements shown in Exhibit C1 and described in Exhibit C2 as part of its completion of the Project (the "Developer Infrastructure Improvements"). The Developer Infrastructure Improvements shall be completed in a good and workmanlike manner and shall comply at the time of completion with all applicable laws. The plans and specifications for the Developer Infrastructure Improvements shall be subject to the review and approval of the City in accordance with the terms of this Contract. Developer must also obtain all other approvals required by the Norfolk City Code and other applicable laws and regulations for the Developer Infrastructure Improvements. Developer must provide the City with payment and performance bonds each in the amount of the general construction contract for the Project in form and substance acceptable to the City;

As part of the Developer Infrastructure Improvements, Developer, at its sole cost and expense, shall construct sidewalk improvements at the Project in accordance with Developer's Proposal and consistent with the specifications set forth in Exhibit D attached hereto and made a part hereof. In the absence of such specifications in Exhibit D, such improvements shall be made in accordance with the City's standard specifications for sidewalks. Developer shall provide a surety bond to the City for completion of the sidewalks in accordance with the City's standard requirements.

Section 2.7. Elizabeth River Trail Relocation.

As part of the Developer Infrastructure Improvements, Developer, at its sole cost and expense, shall construct a relocation of the Elizabeth River Trail (the "ERT") along the southern boundary line of the Project Site as shown in the Developer's Proposal and shall grant to the City at Closing a permanent easement across the ERT portion of the Project for use by the public. Developer shall construct the ERT on the Project Site in accordance with the ERT specifications set forth in Exhibit E attached hereto and made a part hereof or as otherwise reasonably requested by the ERT Commission. The City shall maintain the ERT on the Project Site in keeping with its standards for maintenance and repair of the ERT generally.

Section 2.8. Relocation and Construction of Utilities.

As part of the Developer Infrastructure Improvements, Developer shall be responsible for confirming the existing water and sanitary sewer systems adjacent to or downstream of the Property are adequate to support the Project. Any water or sanitary sewer system upgrades necessary to support the Project shall be designed and constructed by the Developer at the Developer's expense. The Developer shall be responsible for the relocation of any utilities which is necessitated by the Project and for connecting to water, storm and sanitary

sewer lines currently located in public rights of way, and all costs thereof shall be paid and borne by Developer. Connection fees and tap fees for such city utilities serving the Project will be Developer's responsibility. The cost of franchise utility services for the Project shall be the responsibility of Developer. In addition, Developer shall cause all electric, telephone and other utility lines for the Project to be placed underground within public rights of way or utility easements located within the Property lines.

Section 2.9. City's Review Procedures. The City shall review the design submissions within thirty (30) days of its receipt of the same, and shall give notice to Developer within such thirty (30) day period of its determination that either (a) the same are approved as complete in accordance with the terms of this Contract, (b) that such submissions are incomplete or otherwise fail to comply with the terms of this Contract, or (c) that such submissions must be modified. If the City determines that the Project design documents submitted to it hereunder are incomplete or otherwise fail to comply with this Contract or must be modified in accordance herewith, it shall disapprove them or request such modification and shall, in its notice thereof to Developer, set forth with specificity the reasons for the failure to comply and/or the nature of the modification being requested. After correcting and/or modifying and completing the Project design documents in accordance herewith, Developer shall resubmit the Project design documents to the City within thirty (30) days after such notification from the City. The City shall, within thirty (30) days of the receipt of such revised Project design documents, give notice to Developer whether it approves or disapproves or requires further modification of the Project design documents and if it disapproves or requests further modifications, it shall set forth the specific reasons for such disapproval or requested modifications in its notice thereof to Developer. Each further revision and resubmission of any of the Project design documents by Developer, and each further review and notice of

approval or disapproval or request for modification of any of the Project design documents by the City shall be done or made pursuant to the procedures hereinabove set forth.

Section 2.10. Modifications of Design by Developer. If Developer wishes to make modifications to the design of the Project, it shall submit such proposed modifications to the City for review and approval. Any such submission shall clearly identify all changes, omissions and additions as compared to the previously approved Project design documents. If the City determines, in its reasonable judgment, that the proposed modifications are acceptable, the City shall so notify Developer, the Project design shall be deemed to incorporate the modifications that have been approved by the City and Developer shall perform its obligations under this Contract in accordance with the Project design as modified. If the City determines, in its reasonable judgment, that the proposed modifications are not acceptable, the City shall so notify Developer within thirty (30) days, specifying in reasonable detail in what respects they are not acceptable, and Developer shall either (a) withdraw the proposed modifications, in which case, construction of the Project shall proceed on the basis of the Project design previously approved by the City, or (b) revise the proposed modifications in response to the City's objections, and resubmit such modifications to the City for review and approval within thirty (30) days after such notification from the City.

Section 2.11. Construction Schedule. At or prior to submission of the plans for final approval by the City, a Development Budget and Timeline shall be furnished by Developer to the City's Director of Development for review and approval by the City. The Project shall be Substantially Completed by Developer in a good and workmanlike manner in accordance with the design approved by the City under this Contract no later than that date which is twelve (12) months after commencement of construction (the "Construction Completion Deadline"), subject to Permitted Delays. Developer shall commence construction of the Project on or before (60) days following Closing (the "Construction Commencement Deadline") on such schedule as is

reasonably required to achieve this Construction Completion Deadline. Promptly after the execution and delivery of this Contract, Developer shall commence and diligently prosecute all investigations, studies, applications, architectural and engineering work, negotiations, letting and execution, as the case may be, of construction, demolition, and utility relocations or abandonment, contracts or commitments, necessary or appropriate for the commencement of construction in accordance with the timeline set forth herein. Full completion of all punch-list items, landscaping and similar design and development functions for the Project (“Final Completion”) by Developer shall occur within two (2) months following Substantial Completion. In the event a delay in construction of the Project is caused by an Unavoidable Delay or City Delay, the construction commencement deadline or the Construction Completion Deadline shall be extended but only by the number of days of delay caused by such Unavoidable Delay or City Delay; provided, however, there shall be no extension of the applicable Construction Commencement Deadline or the Construction Completion Deadline unless (a) Developer provides written notice to the City within ten (10) business days after conclusion of such Unavoidable Delay or City Delay of (i) the occurrence of such Unavoidable Delay or City Delay, (ii) the total number of days of such Unavoidable Delay or City Delay, and (iii) the adjusted Construction Commencement Deadline or Construction Completion Deadline, and (b) the City agrees, which agreement shall not be unreasonably withheld, to the date(s) of such adjusted Construction Commencement Deadline and the Construction Completion Deadline in writing. Any Unavoidable Delay properly documented in accordance with the terms of this Section 2.102.11 shall be referred to as a “Permitted Delay.”

Section 2.12. Financing Commitment; Failure to Obtain Financing. Prior to Closing, Developer shall provide a Financing Commitment to the City, in form and substance satisfactory to the City, of the Developer’s financial ability to design, construct and equip the Project and thereafter to maintain, operate and lease same in accordance with the standards set forth in this

Contract. If the City is not satisfied with the Financing Commitment, the City shall provide the Developer with written notice of why the Financing Commitment is unacceptable to the City. Developer shall have secured a Financing Commitment for the funds necessary to satisfy its obligations under this Contract by no later than Closing. Failure to secure a Financing Commitment satisfactory to the City will permit the City to terminate this Contract. In the event of such termination, Developer's sole remedy shall be the return of the Deposit. Title to the Property will not be conveyed before the Developer closes on the financing for the construction of the Project and the terms and the source of the financing are acceptable to the City.

Section 2.13. Failure to Meet Development Schedule. In the event that (a) Developer fails to commence construction as specified in Section 2.102.11 (other than because of Permitted Delay), (b) construction ceases for ninety (90) consecutive days (other than because of Permitted Delay), or (c) Developer fails to complete construction on or before the Construction Completion Deadline (other than because of a Permitted Delay), then in such event, Developer shall pay liquidated damages for such delay for each day between the date twelve (12) months after the Construction Commencement Deadline and the date the Project is Completed. The amount of liquidated damages for such delay per day shall be the difference between real estate taxes that would be payable if the Project had been Completed on the date twelve (12) months after the Construction Completion Deadline and the actual real estate taxes that are assessed for the days between the date twelve (12) months after the Construction Completion Deadline and the date the Project is Completed. Developer agrees this provision is a valid and enforceable liquidated damages provision and the City's Real Estate Assessor's assessment of the amount owed shall be accepted by Developer as the proper amount.

Section 2.14. Risk of Loss and Insurance.

After Closing, the Developer shall bear the risk of loss on the Property and all improvements thereon, including, without limitation, the Project. Developer agrees that, in the event the Project is partially or fully damaged or destroyed prior to Final Completion and occupancy and subject to the Project's lender allowing the use of insurance proceeds for reconstruction, Developer shall rebuild the Project at its cost, including the costs of design, construction and equipping same in accordance with the terms set forth herein. Failure to commence reconstruction within a reasonable time or failure to complete reconstruction on a construction schedule reasonably comparable to the construction schedule applicable to the initial construction of the Project shall entitle City, at the City's option, to terminate this Contract and have the Property reconveyed to City at no cost to City.

Beginning on the Date of Closing, Developer shall, at its sole expense and cost, keep the Property and all of the improvements, including the Project, on the Property insured, on forms and in companies acceptable to City subject to the prior rights of the Project's lender, for the benefit of Developer and City, in an amount equal to not less than the full insurable value (a) against loss and damage by fire, and (b) against loss or damage from risks covered by standard form of endorsement for use in Norfolk, Virginia. In no event shall the coverage amount be less than the amount it would take to design, construct and equip the Project in the event of partial or complete destruction of the Project. Subject to the prior rights of the Project's lender, City shall be a loss payee on all such policies until the final certificate of occupancy is issued for the Project.

Prior to Closing, City shall bear the risk of loss of the Property and any existing improvements. However, any improvements thereon are to be demolished by Developer after Closing; therefore, loss of all or part of improvements on the Property prior to Closing in no way

requires City to rebuild the existing improvements and shall not affect Developer's obligation to close or affect the Purchase Price.

ARTICLE III

CLOSING AND PURCHASE PRICE

Section 3.1. Time and Place of Closing.

The closing ("Closing") shall take place at Office of the City Attorney, City Hall, 810 Union Street, Suite 900, Norfolk, Virginia 23510, or at any other location in Norfolk agreed to by the Parties, on a date which shall be the earlier of either (a) a date mutually satisfactory to Developer and the City, or (b) thirty (30) days after the conditions set forth in Section 3.3(f) have been satisfied but in no event later than March 31, 2017 ("Outside Closing Date").

Section 3.2. Consideration.

In consideration for the City's conveyance of the Property to Developer, (a) Developer shall pay to City Six Hundred Thousand and 00/100 Dollars (\$600,000.00) and Developer shall be obligated to design, construct, and equip the Project on the Property at Developer's sole expense pursuant to the terms of this Contract.

Section 3.3. Conditions of Developer's Obligation to Close.

The obligation of Developer to close hereunder is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided, however, that Developer at its election, evidenced by notice delivered to the City prior to or at the Closing, may waive any or all of the following conditions:

(a) All representations, warranties, acknowledgments and covenants made by the City in this Contract shall be true and correct in all material respects and shall continue to be true and correct in all material respects at the date of Closing.

(b) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated, and/or shall be in force, that would prevent the use and development of the Project in accordance with this Contract, the zoning, or in accordance with any related agreements to which the City is a party, or to which Developer is a party.

(c) There shall be no material adverse change to the physical or environmental condition of the Property since the date of this Contract.

(d) The City shall own good and marketable fee simple title to the Property free and clear of all liens and encumbrances except those permitted by this Contract.

(e) The Property shall have been rezoned to allow the use of the Property for the Project (the “Development Approvals”).

(f) A building permit for the Project and a Financing Commitment for the Project shall have been obtained by the Developer.

(g) Developer shall have closed or will close simultaneously on its acquisition of the remainder of the Project Site.

(h) The Economic Development Authority of the City of Norfolk (the “Authority”) and the Developer shall have entered into a Performance Grant Agreement or similar agreement under which the Developer shall be entitled to receive up to \$300,000 per year for ten (10) years subject to the Project meeting certain performance criteria as established by the Authority, to include, without limitation, the continued operation of the Earth Fare grocery store and a Project occupancy rate with respect to commercial space in the Project of not less than fifty percent (50%). Any such grant agreement is conditioned upon the City and the Authority entering into a cooperation agreement with respect to such agreement. Any failure of the City and the Authority to enter into such cooperation agreement or any failure of the EDA to enter into a grant

agreement with the Developer shall not constitute an event of default under this Contract but shall be grounds for Developer to terminate this Contract. The Parties shall endeavor to execute a grant agreement prior to the expiration of the Developer's Due Diligence Period. The proposed grant agreement and any cooperation agreement are subject to approval by the Authority and the City Council of the City of Norfolk and any funds to be paid thereunder are subject to appropriation by the City Council of the City of Norfolk.

Section 3.4. Conditions of City's Obligation to Close.

The obligation of the City to close hereunder is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided, however, that the City at its election, evidenced by notice delivered to Developer prior to or at the Closing, may waive any or all of the following conditions:

(a) All representations, warranties, acknowledgments and covenants made by Developer in this Contract shall be true and correct in all material respects, and shall continue to be true and correct in all material respects at the date of Closing.

(b) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated, and/or shall be in force, that would prevent the use and development of the Property in accordance with this Contract, the zoning, or in accordance with any related agreements to which the City or Developer is or are a party.

(c) Developer will submit to City in accordance with City's zoning regulations two copies each of (i) the plan of development for the Project and (ii) the application for the building permit for the Project;

(d) Developer shall have obtained a Financing Commitment in accordance with Section 2.122.12 and shall have provided to the City appropriate evidence thereof;

(e) A certificate from the Virginia Board of Contractors or other evidence satisfactory to the City that the General Contractor selected by Developer to construct the Project is a registered contractor in good standing with the Virginia Board of Contractors;

(f) Such other documentation including build out drawings, schematic drawings and renderings of the Project as may reasonably be requested by City to insure the orderly development of the Property in accordance with the terms of this Contract;

(g) City shall have approved the proposed budget in accordance with 2.9;

(h) City shall have approved the design development documents in accordance with Sections 2.5 and 2.9;

(i) City shall have received a copy of the executed construction contract;

(j) City shall have received copies of payment and performance bonds each in the amount of the general construction contract for the Project in form and substance acceptable to the City;

(k) City shall have received a copy of a fully executed lease with a term of no less than ten (10) years between Developer and Earth Fare for a grocery store at the Project in the location shown in the Developer's Proposal.

(l) City shall have received proof satisfactory to the City of insurance required in Section 2.14.2.14.

(m) Developer shall have closed or will close simultaneously on its acquisition of the remainder of the Project Site.

Section 3.5. Failure to Satisfy Conditions.

In the event that any of the conditions of a Party's obligation to close hereunder as set forth in Section 3.3 or 3.4 hereof are unsatisfied for any reason other than a Permitted Delay, that Party shall be entitled, but not obligated, upon notice delivered to the other Party to this

Contract on or prior to the Closing Date, to receive one adjournment of thirty (30) days of the Closing to enable that Party to satisfy or cause to be satisfied such conditions. If on the original or any adjourned Closing Date, any condition(s) of the obligation of a Party to close hereunder shall remain unsatisfied and has not been waived by such Party, then such Party shall have the right to terminate this Contract upon thirty (30) days written notice to the other, and unless, during such thirty (30) day notice period, either (a) the Party entitled to terminate shall waive such condition(s) as provided above and agree to proceed to Closing hereunder, or (b) the Party entitled to terminate my, by written notice to the other Party, terminate this Contract, in which event this Contract shall immediately terminate and subject to the last sentence of Section 2.32.4, neither Party shall have any further rights hereunder or obligations to the other of any nature hereunder or by reason hereof, except that with respect to a failure to satisfy any condition of the Closing that results from a Party's default under this Contract, the provisions of this Contract pertaining to such default, and to the Parties' respective rights, remedies and obligations in connection with such default, shall be applicable in addition to, or (in the non-defaulting Party's discretion) as an alternative to, the non-defaulting Party's aforesaid right of termination.

Section 3.6. Deliveries at Closing by City.

At the Closing, City will execute and deliver to Developer the following:

(a) A special warranty deed conveying good and marketable fee simple title to the Property free and clear of all liens and encumbrances except "Permitted Encumbrances," as defined herein, to Developer subject to the restrictive covenants described in Section 2.2; "Permitted Encumbrances" shall mean all matters of record (except liens) that have not expired by time limitations contained therein or otherwise become ineffective or that were accepted by Developer pursuant to the provisions of Section 2.1 of this Contract.

(b) A certificate to the effect that the City is not a foreign entity subject to the withholding requirements of the Foreign Investment in Real Property Tax Act;

(c) A certified copy of the ordinance adopted by the City authorizing the conveyance of the Property to Developer pursuant to the terms of this Contract;

(d) The cooperation agreement referenced in Section 3.3(h) of this Contract;
and

(e) Any other document or instrument required hereunder or reasonably requested by Developer or its title insurance company in order to consummate the transactions contemplated herein.

Section 3.7. Deliveries at the Closing by Developer.

At the Closing, Developer shall execute and/or deliver the following:

(a) Developer shall deliver to the City the Purchase Price minus the Deposit, by wire, cashier's check or certified funds.

(b) Developer shall deliver to the City evidence reasonably satisfactory to the City that Developer has been validly formed and is in good standing and qualified to do business in the Commonwealth of Virginia and City of Norfolk.

(c) Developer shall deliver to the City the written opinion of counsel of Developer, in form reasonably satisfactory to the City (assuming that all signatures are genuine, and further assuming that all documents presented to such counsel as copies conform with the originals), stating (1) that Developer is a limited liability company, duly organized and validly existing entity under the laws of the Commonwealth of Virginia; (2) that Developer has the power to enter into the transactions contemplated by this Contract (including, without limitation, entry into this Contract); (3) that all actions by Developer required to be authorized in the transaction contemplated by this Contract have been duly authorized; (4) that this Contract and all documents

required to effectuate the transactions contemplated hereby which are to be executed by Developer (including, without limitation, all agreements and instruments to be executed by Developer at the Closing) have been duly executed and delivered by Developer, and constitute binding obligations of Developer, enforceable in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganizations, moratoriums or similar laws affecting the enforcement of creditors' rights generally and by legal and equitable limitation on the enforceability of specific remedies;

(d) Deed of Easement for the ERT portion of the Project Site in accordance with Section 2.7 of this Contract; and

(e) Any other document or instrument required hereunder or reasonably requested by the City in order to consummate the transactions contemplated herein, which document or instrument will be in form and substance reasonably acceptable to Developer, including, but not limited to, proof of insurance required by Section 2.142.14 which document or instrument will be in form and substance reasonably acceptable to City.

Section 3.8. Prorations. Proratable items relating to the Property will be prorated as of the date of Closing.

Section 3.9. Closing Costs. City is exempt from grantor's tax on the Deed. Developer will pay all other recording taxes and fees in connection with the recordation of the Deed, the cost of its title insurance commitment and policy, the cost of obtaining the survey and any subdivision plat required, and all other costs incurred in connection with its due diligence investigations of the Property. Each Party will pay its respective attorney's fees.

ARTICLE IV

ADDITIONAL COVENANTS

Section 4.1. Right of Entry. Commencing upon the date of full execution of this Contract and continuing until the earlier of the termination of this Contract or Closing, Developer and its agents, representatives and contractors will have the right to enter the Property for the purpose of surveying the Property, conducting soil tests and engineering studies and performing such other examinations as Developer deems necessary to determine the suitability of the Property for its contemplated development. Developer will keep the Property free and clear of all mechanics' liens and will indemnify, defend and hold the City harmless from and against any and all claims, liens, liabilities, damages, losses and costs (including reasonable attorneys' fees) arising from the exercise by Developer of its right of entry under this Section. This indemnity will survive Closing and any termination of this Contract. If the Closing does not occur, Developer will repair any damage to the Property caused by Developer's exercise of such right of entry.

Section 4.2. Survey. Developer shall obtain a survey of the Property. Such survey shall be certified to Developer, the City, and the title company furnishing a title commitment to the Developer.

Section 4.3. Condemnation. If before the Closing all or any portion of the Property is taken under the power of eminent domain or is transferred in lieu of such taking and such taking or transfer materially interferes with Developer's contemplated development of the Property, Developer may, at its option, (i) terminate this Contract by notice to the City within thirty (30) days after Developer is notified of such taking or transfer, in which case return of the Deposit shall be the sole and exclusive remedy or (ii) proceed to Closing.

Section 4.4. Time is of the Essence. Time is of the essence as to the performance of the terms and conditions of this Contract. To the extent any provisions of this Contract specifically

state that time is of the essence, such specific provisions are not intended to mean that time is not of the essence as to the remaining provisions of this Contract.

Section 4.5. Staging Area and Construction Operations. City does not have any obligation to Developer and/or its contractor to provide a staging area or any particular construction easements for construction of the Project. Developer shall see that any pile driving and similar or other loud construction methods are not started before 7:00 a.m. and cease by 7:00 p.m. on weekdays, and are not started before 8:00 a.m. and cease before 7:00 p.m. on weekends and holidays except utility connections may be scheduled at times least disruptive to the Project and/or neighbors.

Section 4.6. Street Closures; Encroachments; Right of Way Permits. As part of Developer's due diligence, Developer shall work with City staff to determine what actions must be taken with respect to the public rights of way that intersect with and abut the Property to allow for the Project to be constructed, to include without limitation, street closures, the dedication of new public rights of way, encroachments, and right of way permits. The parties acknowledge the City does not own the underlying fee to a portion, if not all, of the public rights of way that intersect with and abut the Property and any dispute that arises with respect to ownership of or title to the underlying fee in the public rights of way shall be resolved by and between the Developer and the holder of such title.

ARTICLE V

PROGRESS REPORTS

Section 5.1. Progress Reports. In addition to timely construction of the Project, within ten (10) days after receipt of the City's request therefor, Developer shall provide the City with a written progress report that reflects all work done since the date of the prior progress report, if any;

provided, however, Developer shall not be required to provide such progress reports more frequently than monthly.

ARTICLE VI

MODIFICATIONS FOR LENDER

If in connection with obtaining Financing Commitments for this Project, any lender shall request reasonable modifications of this Contract as a condition to such financing, the parties will execute a modification of this Contract, provided that such modification does not increase the financial obligations of the City, or materially and adversely affect any rights of the City created by this Contract.

ARTICLE VII

ADDITIONAL OBLIGATIONS

Section 7.1. Zoning. If not previously initiated, promptly after execution of this Contract, Developer shall initiate appropriate proceedings in order to apply for rezoning of the Property to a classification that allows the Project to be carried out in accordance with the terms of the Contract.

Section 7.2. Permits. City shall execute as owner, as may be required, all building permit applications, plans of development, utility permit applications, utility easements, and such other documents as may be reasonably required for Developer to obtain building permits for the Project. Developer agrees to indemnify and save City harmless from any liabilities resulting from incorrect information therein, unless such information was provided by City.

Section 7.3. Certification. Upon Final Completion of the Project and the issuance of a certificate of occupancy, City will furnish Developer an appropriate instrument certifying that Developer has complied with the provisions hereof relating to the construction of the Project. If City shall, for cause, refuse or fail to provide certification, the City shall, within ten (10) days after

written request by Developer, provide Developer with a written statement indicating in adequate detail how Developer has failed to complete the construction of the Project in conformity with this Contract, or is otherwise in default, and what measures or acts will be reasonably necessary in the opinion of the City, for Developer to take or perform in order to obtain certification.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Default by Developer.

The occurrence of any of the following shall be an event of default by Developer under this Contract:

- (a) The filing by Developer of a voluntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtors' rights;
- (b) The consent by Developer to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor's rights;
- (c) The entering of an order for relief against Developer or the appointment of receiver, trustee, or custodian for all or a substantial part of the property or assets of Developer in any involuntary proceeding, and the continuation of such order, judgment or decree unstayed for any period of thirty (30) consecutive days;
- (d) The failure of Developer to perform or to observe any covenant, obligation, condition or requirement of this Contract not specifically named as a default in this Section 8.1, and the continuation of such failure for thirty (30) days after written notice from City specifying the nature and extent of any such default, or, if such default cannot reasonably be cured within such thirty (30)-day period, the failure either (i) to commence to cure such default within such thirty (30)-day period -and to diligently continue to pursue such effort to cure to completion, or

(ii) to cure such default within a reasonable time after the expiration of the first thirty (30)-day period, in no event to exceed ninety (90) days after the written notice of default.

Section 8.2. Remedies.

Upon the occurrence and continuance of any event of default described in Section 8.1 after written notice and expiration of any applicable cure period without cure, City may elect to terminate this Contract by giving written notice of such termination to Developer, and this Contract shall terminate as of the date specified in such notice (which date shall be on or after the date of the notice of termination). In addition to the remedies described herein, a non-defaulting Party shall have available to it all other rights and remedies at law or in equity. Remedies under this Contract shall be cumulative and not restrictive of other remedies.

ARTICLE IX

ASSIGNMENT LIMITATIONS

Except as otherwise specifically provided herein, prior to Final Completion of the Project, Developer may not assign this Contract or any right, title or interest hereunder, to any entity other than an Affiliate without the City's prior written permission. Developer shall have the right to collaterally assign all or any portion of its rights in this Contract to any lender or lenders prior to the Final Completion of the Project or to anyone after the Project has been Finally Completed.

An assignment shall not relieve the assigning party from its obligations under this Contract. Any purported assignment of this Contract or of any right, title or interest hereunder not complying with this Article IX shall be void and of no force or effect.

ARTICLE X

MISCELLANEOUS

Section 10.1. Low and Moderate Income Job Opportunities. Developer shall make every reasonable effort to include provisions in the construction contracts for the Project, (i) requiring

the contractor to make a good faith effort to see that job opportunities at the Project are made available to low and moderate income persons who live in Norfolk; and (ii) prohibiting any contractor from discriminating on the basis of race, color, creed, national origin, age or sex. Developer will cooperate with the City in alerting the contractors to any training programs or other job opportunity sponsored by the City, and encourage participation in such programs.

Section 10.2. City's Project Representative. The City hereby appoints Charles E. "Chuck" Rigney, Director of Development, or his designee as its representative for the Project who will be responsible for coordinating the City's approvals hereunder.

Section 10.3. No Broker. Developer and City each represent and warrant that no broker to whom a commission, fee or other compensation is payable is or has been involved in or brought about the transactions contemplated by this Contract. Each of said Parties shall indemnify and hold the others harmless from any and all claims, obligations, liabilities, costs or expense (including reasonable attorneys' fees) incurred as a result of any claim for brokerage commissions, fees or other compensation by any person or entity who alleges having acted or dealt with the indemnifying Party in connection with the Project or the transactions contemplated by this Contract. The Parties' obligations under this Section shall survive the Closing and any termination of this Contract.

Section 10.4. Relationship of Parties. This Contract is not to be construed to create a partnership or joint venture between the Parties.

Section 10.5. Negotiated Document. The Parties acknowledge that the provisions and language of this Contract have been negotiated, and agree that no provision of this Contract shall be construed against any Party by reason of such Party having drafted such provision of this Contract.

Section 10.6. Governing Law. This Contract shall be governed and construed by the laws of the Commonwealth of Virginia. In the event of any action arising between the Parties with respect to the Project, venue shall be in the Circuit Court of the City of Norfolk.

Section 10.7. Successors and Assigns. The agreements, terms, covenants and conditions of this Contract shall be binding upon and inure to the benefit of the City, Developer, and except as otherwise provided herein, their respective successors and permitted assigns.

Section 10.8. Further Assurances. Each Party hereto shall do all acts and things and make, execute and deliver such written instruments as shall from time to time be reasonably required to carry out the terms and provisions of this Contract.

Section 10.9. No Amendment. Neither this Contract nor any provisions hereof may be changed, modified, amended, supplemented, altered, waived, discharged or terminated except by an instrument in writing signed by both Parties and if required by any mortgage document, with the written consent of the applicable lender.

Section 10.10. Survival of Closing. The provisions of this Contract shall survive the Closing.

Section 10.11. Effectiveness. This Contract shall not be binding or effective until executed and delivered by the Parties hereto.

Section 10.12. Waiver. The failure of any Party to insist upon strict performance of any of the terms or provisions of this Contract or to exercise any option, right or remedy contained in this Contract, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, of this Contract nor be deemed to have been made unless expressed in writing and signed by such Party.

Section 10.13. Exhibits. Each Exhibit referred to in this Contract is incorporated by reference and attached to this Contract.

Section 10.14. Consent and Approvals.

(a) All consents and approvals which may be given under this Contract shall be in writing, as a condition of their effectiveness. The granting of any consent or approval by a Party to perform any act requiring consent or approval under the terms of this Contract or the failure on the part of a Party to object to any such action taken without the required consent or approval shall not be deemed a waiver by the Party whose consent was required or its right to require such consent or approval for any further similar act.

(b) If it is provided that a particular consent or approval is not to be unreasonably withheld, such consent or approval also shall not be unreasonably conditioned or delayed and any matter required to be done satisfactorily or to the satisfaction of a Party only be done reasonably satisfactorily or to the reasonable satisfaction of that Party.

Section 10.15. Interpretation. For the purpose of construing this Contract, unless the context indicates otherwise, words in the singular number shall be deemed to include words in the plural number and vice versa, words in one gender shall be deemed to include words in other genders, and the word “person” shall be deemed to include a corporation or partnership. Headings of articles and sections are inserted only for convenience and are not, and shall not be deemed, a limitation on the scope of the particular articles or sections to which they refer.

Section 10.16. “Including”. In this Contract, whenever general words or terms are followed by the word “including” (or other forms of the word “include”) and words of particular and specific meaning, the word “including without limitation,” and the general words shall be construed in their widest extent, and shall not be limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

Section 10.17. Notices. All notices or other communications required or desired to be given with respect to this Contract shall be in writing and shall be delivered by hand or by courier

service, or sent by registered or certified mail, return receipt requested, bearing adequate postage and properly addressed as provided below. Each notice given by mail shall be deemed to be given by the sender when received or refused by the Party intended to receive such notice; each notice delivered by hand or by courier service shall be deemed to have been given and received when actually received by the Party intended to receive such notice or when such Party refuses to accept delivery of such notice. Upon a change of address by either Party, such Party shall give written notice of such change to the other Party in accordance with the foregoing. Inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent, effective as of the date such notice would otherwise have been received.

To City:

City Manager
1100 City Hall
810 Union Street
Norfolk, VA 23510

With a copy to:

Director
City of Norfolk Department of Development
500 E Main St
Suite 1500
Norfolk, VA 23510

With a copy to:

City Attorney
Office of the City Attorney
810 Union Street, Suite 900
Norfolk, VA 23510

To Developer:
David P. Clarke, Partner
James D. Carr, Partner
110 Mid-Atlantic Place
Yorktown, VA 23693
Email: dclarke@vistacor.com
Email: jcarr@vistacor.com

With a copy to:

Section 10.18. Entire Agreement. This Contract constitutes the entire agreement between the Parties with respect to the Project and supersedes all prior understandings and writings, and this Contract may be amended or modified only by a writing signed by City, and Developer.

Section 10.19. Counterparts. This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single document.

Section 10.20. Recordation. This Contract may be recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia.

[SIGNATURE PAGES TO FOLLOW]

WITNESS the following signatures:

CITY OF NORFOLK

By: _____
Name: _____
Title: _____

ATTEST:

City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

Sworn to and subscribed before me, a Notary Public in and for the City and Commonwealth
aforesaid, by _____ of the City of Norfolk, and by
_____, Clerk of the City of Norfolk, this _____ day of
_____, 2016.

Notary Public

My Commission Expires: _____

Registration No.: _____

APPROVED AS TO CONTENTS:

Director, Department of Development

APPROVED AS TO FORM
AND CORRECTNESS:

Assistant City Attorney

DEVELOPER

VISTACOR ADVISORS, LLC
a Virginia limited liability company

By: _____
Title: _____
Date: _____

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

Sworn to and subscribed before me, a Notary Public in and for the City and Commonwealth
aforesaid, by _____, _____ of Vistacor Advisors, LLC, a Virginia
limited liability company, this _____ day of _____, 2016.

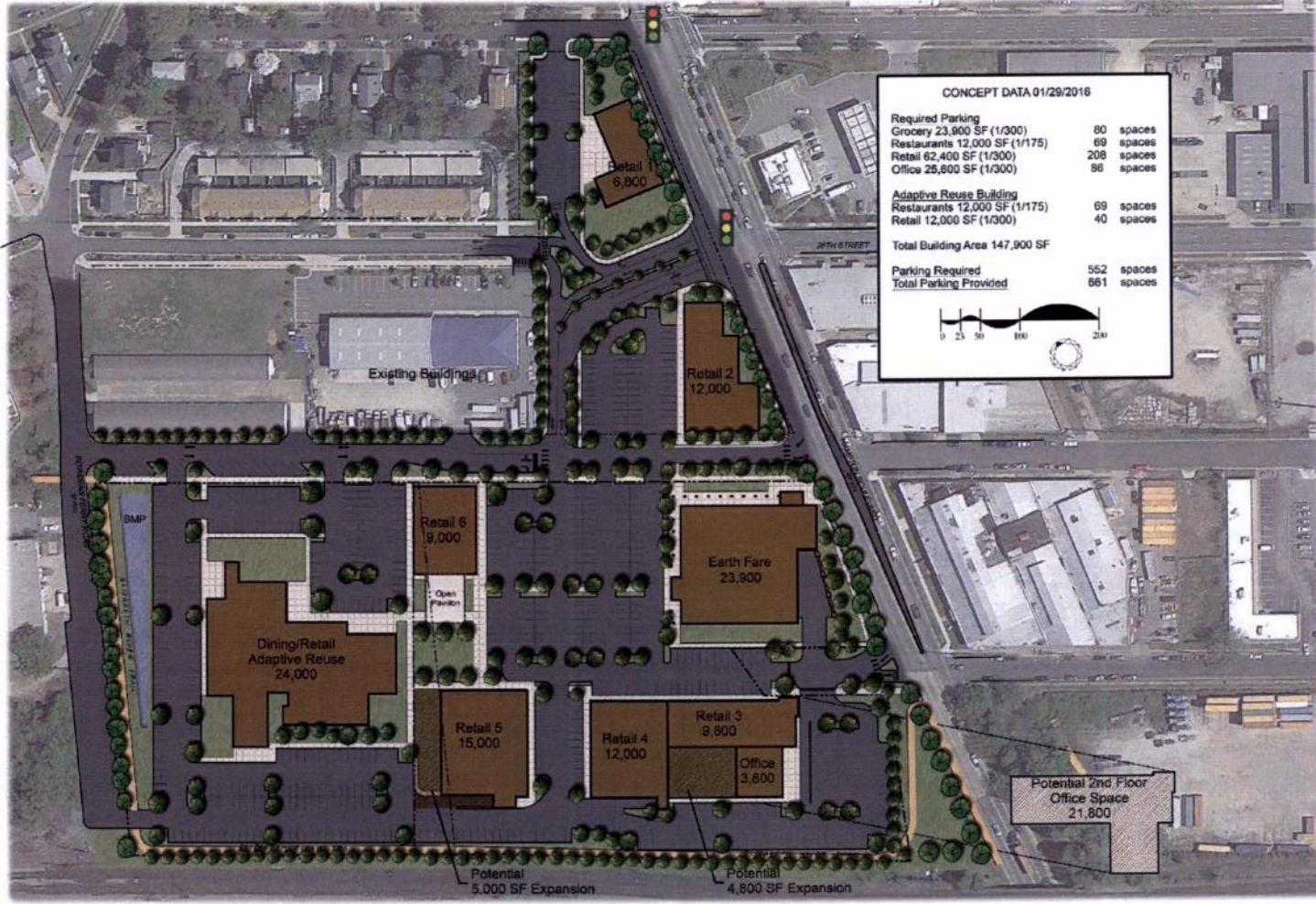
Notary Public

My Commission Expires: _____

Registration No.: _____

EXHIBIT A

Developer's Proposal



Railyard at Lambert's Point
Vistacor Advisors, LLC



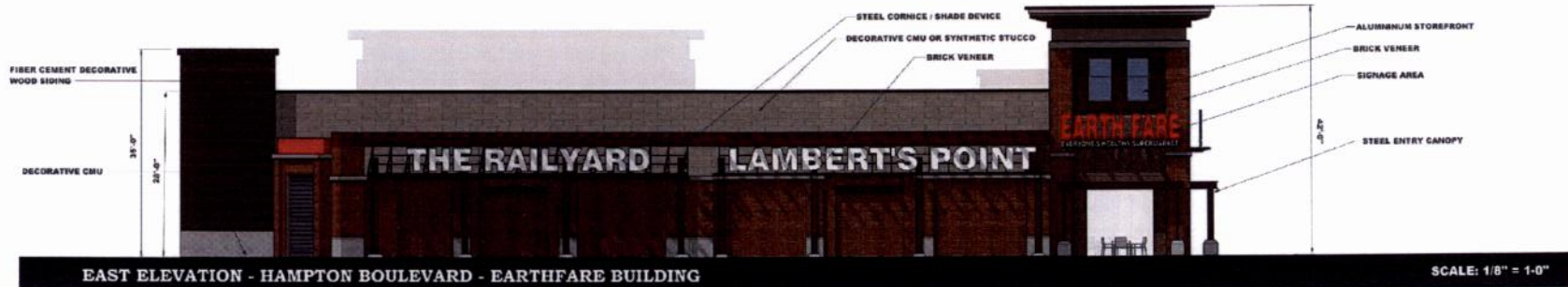
Guemsey Tingle Architects

1

February 12, 2016









5

February 12, 2016

Guernsey
Tingle
Architects

TIMMONS GROUP

Railyard at Lambert's Point
Vistacor Advisors, LLC

EXHIBIT B
Property

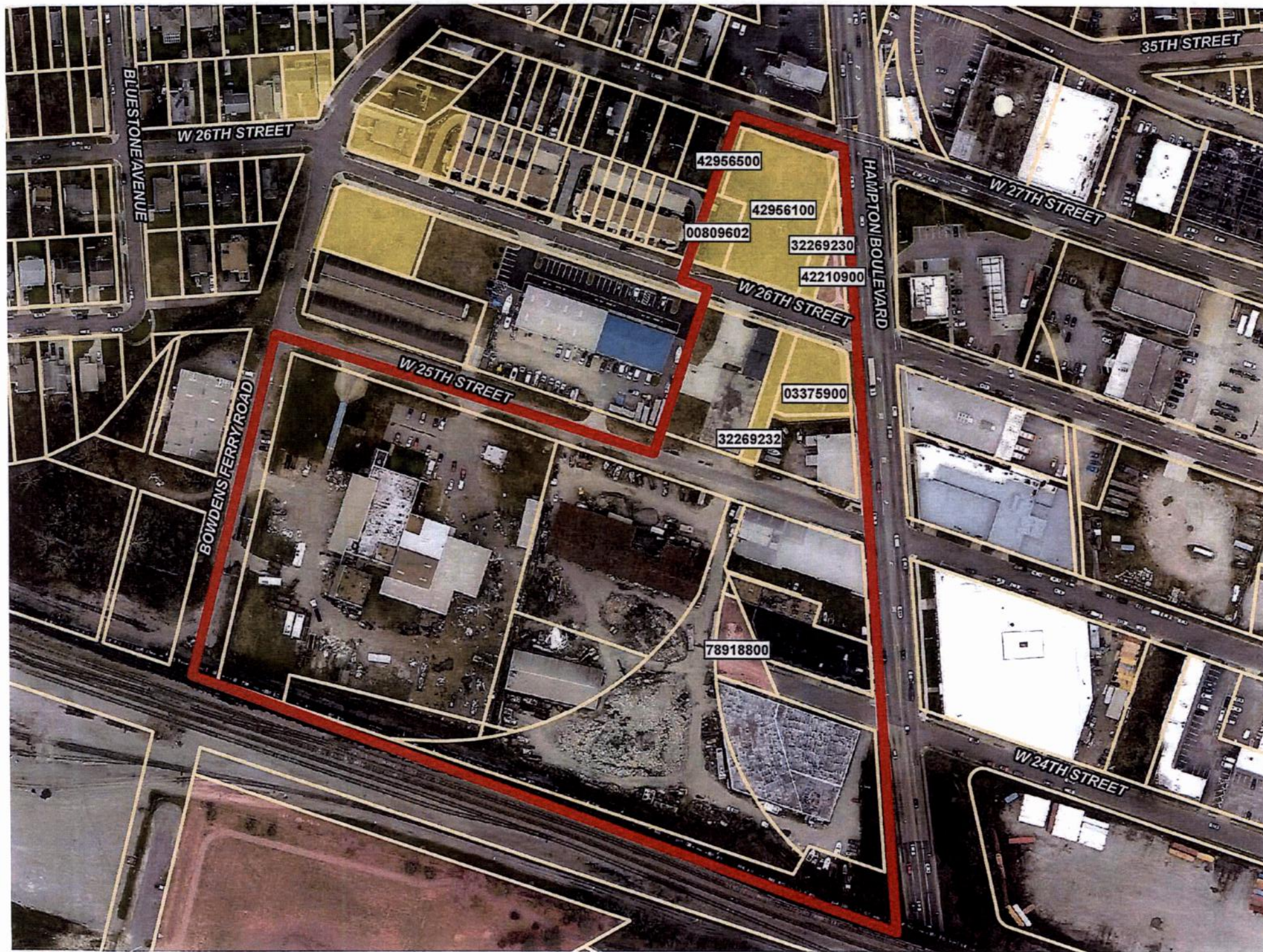
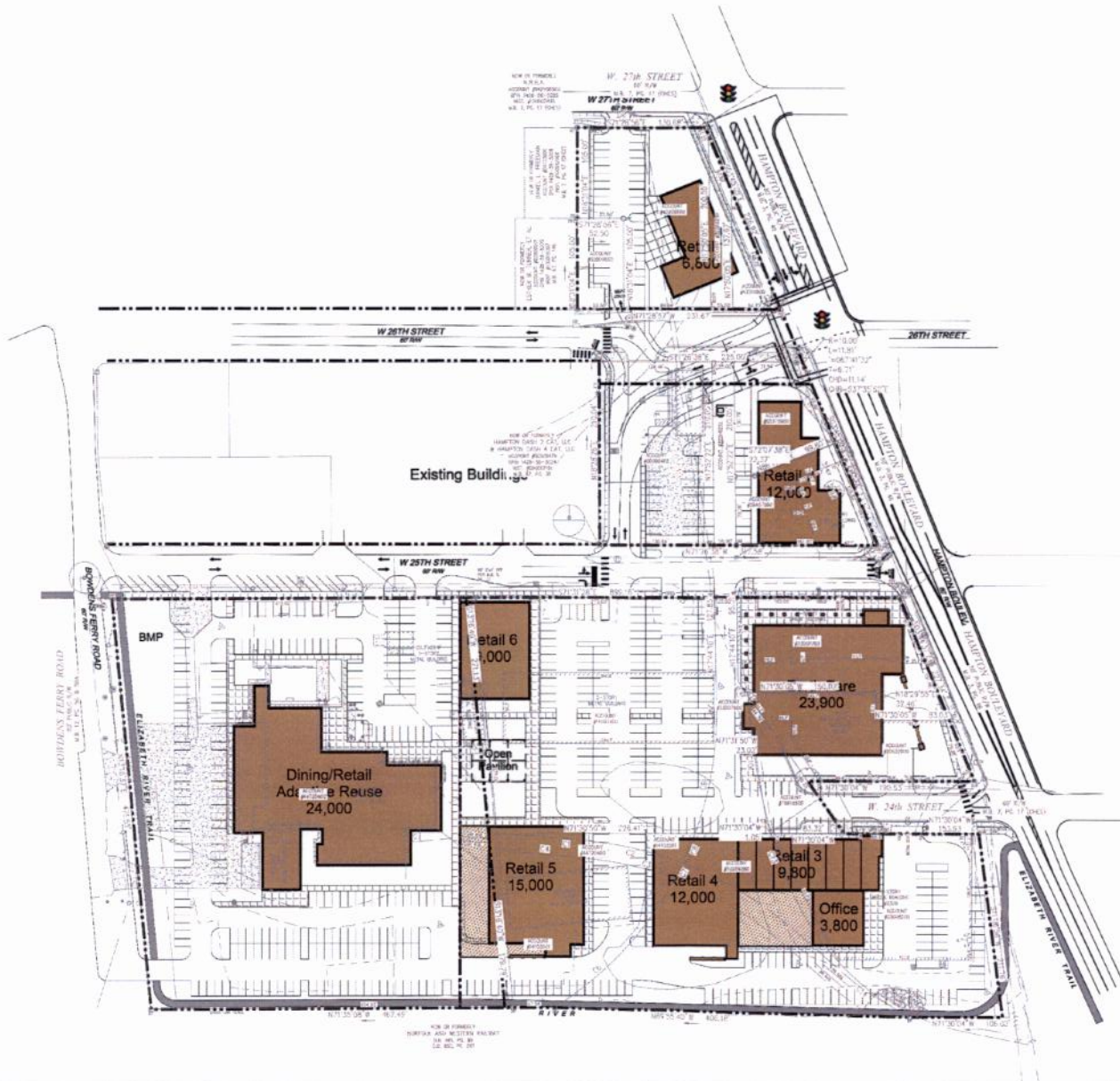


EXHIBIT C1

PLAT SHOWING DEVELOPER INFRASTRUCTURE IMPROVEMENTS



LAMBERT'S POINT
 ALTA EXHIBIT - February 15, 2016

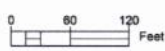


EXHIBIT C2

DESCRIPTION OF DEVELOPER INFRASTRUCTURE IMPROVEMENTS

LAMBERT'S POINT - ITEMS TO BE REMOVED WITHIN R/W:

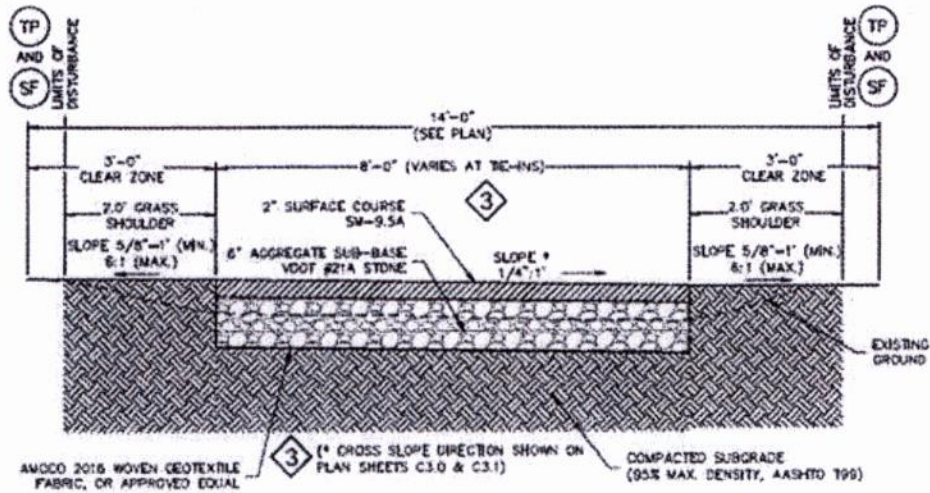
- Extend Elizabeth River bike trail through site. (Approximately 1,000 feet between Bowdens Ferry Road and Hampton Blvd.)
- Bowdens Ferry Road:
 - Drainage improvements
 - Demolition of existing pavement (entrances, sidewalks)
 - Utility relocations
 - Grading
- Hampton Blvd:
 - Travel lane, turn lane and median improvements along Hampton Blvd.
 - Demolition and relocation of underground existing power lines
 - Demolition and relocation of existing cable and fiber optics duct banks
 - Demolition of curbing, sidewalks, entrances, paving
 - Utility relocations
 - Grading
- 24th Street:
 - Pavement demolition
 - Utility relocations
 - Grading
- 25th Street:
 - Pavement demolition
 - Utility relocations
 - Grading
- 26th Street:
 - Install traffic signals and turn lanes at 26th Street and Hampton Blvd.
 - Pavement demolition
 - Utility relocations
 - Grading
- 27th Street:
 - Signal and timing modifications, striping at 27th street and Hampton Blvd.
 - Pavement demolition
 - Utility relocations
 - Grading

EXHIBIT D

SIDEWALK SPECIFICATIONS

(In the absence of agreed upon sidewalk specifications,
the specifications shall be as set forth in Section 2.6 of this Agreement)

EXHIBIT E **ERT Specifications**



NOTES:

1. TRAIL SHALL GENERALLY MATCH EXISTING GRADE. ROOT PRUNING SHALL BE A MINIMUM DEPTH OF 6".
2. CONTRACTOR SHALL MAINTAIN DRAINAGE ACROSS TRAIL WITHOUT OBSTRUCTION.
3. CONTRACTOR SHALL RE-GRADE AREAS AROUND TRAIL AS NECESSARY TO ENSURE POSITIVE STORMWATER RUNOFF.
4. PONDING OF WATER SHALL NOT BE ACCEPTED BY THE CITY. ANY REQUIRED RE-WORK SHALL BE AT THE EXPENSE OF THE CONTRACTOR.
5. CROSS GRADE DIRECTION SHOWN USING ARROW ON PLAN VIEW.

ASPHALT TRAIL SECTION (NO CROWN)

NTS